

2175  
41

DOCKET NO.: MSFT-1079/115148.2

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Nigel R. Ellis

Application No.: 10/034,806

Filing Date: December 26, 2001

For: AUTOMATIC DATABASE STATISTICS CREATION

Confirmation No.: 4495

Group Art Unit: 2175

Examiner: Mizrahi, Diane D.

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Technology Center 2100

DATE OF DEPOSIT: August 4, 2004

I HEREBY CERTIFY THAT THIS PAPER IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL, POSTAGE PREPAID, ON THE DATE INDICATED ABOVE AND IS ADDRESSED TO THE COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450.

TYPED NAME: John E. McGlynn  
REGISTRATION NO.: 42,863

☒ MS Amendment ☐ MS AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

REPLY TRANSMITTAL LETTER

- ☐ A Preliminary Amendment.
- ☒ A Reply Responsive to the Office Action Dated May 13, 2004.
- ☐ Supplemental to the Paper filed .
- ☐ A Substitute Specification (pages 1 - ) in clean form.
- ☐ A substitute specification (pages 1 - ) with markings.
- ☐ An Abstract is enclosed.
- ☐ replacement sheets of drawings are enclosed comprising figures .
- ☐ Request is hereby made to accept black and white photograph(s) in this case, as they are the only practicable medium for illustrating the claimed invention. One (1) set of black and white photographs comprising figure(s) is submitted herewith.

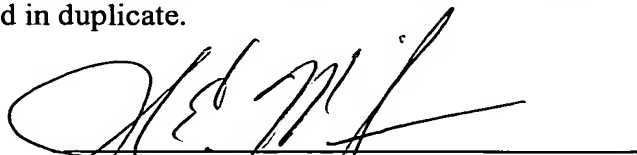
- ☐ Petition is hereby made to accept drawing(s)/photograph(s) in this case.
- ☐ Three (3) sets of color drawing(s)/photograph(s) and black and white photocopy that accurately depicts to the extent possible, the subject matter shown in the color drawing(s)/photograph(s), are enclosed, comprising figures
- ☐ An amendment to the first paragraph in that portion of the Brief Description of the Drawings is also enclosed herewith advising that the patent contains at least one drawing/photograph in color.
- ☐ A Certified Copy of each of the following applications: is enclosed.
- ☐ An Associate Power of Attorney is enclosed.
- ☐ Information Disclosure Statement.
- ☐ Attached Form 1449.
- ☐ A copy of each reference as listed on the attached Form PTO-1449 is enclosed herewith.
- ☐ A Terminal Disclaimer is attached.
- ☐ Appendices as follows:
- ☒ Other: Copy of Office Action dated April 3, 2001 and the Response thereto dated April 30, 2001, as filed in parent application (MSFT-0018) Serial No. 09/213,087.
- ☒ **No Additional Fee is Due.**
- ☐ Applicant(s) has previously claimed small entity status under 37 CFR § 1.27.
- ☐ Applicant(s) by its/their undersigned attorney, claims small entity status under 37 CFR § 1.27 as
- ☐ This application is no longer entitled to small entity status. It is requested that this be noted in the files of the U.S. Patent and Trademark Office.

				SMALL ENTITY		NOT SMALL ENTITY	
	REMAINING AFTER AMENDMENT	HIGHEST PAID FOR	EXTRA	RATE	FEE	RATE	FEE
TOTAL CLAIMS	17	17 (20 MINIMUM)	0	\$9 EACH	\$	\$18 EACH	\$
INDEP. CLAIMS	5	5 (3 MINIMUM)	0	\$43 EACH	\$	\$86 EACH	\$
FIRST PRESENTATION OF MULTIPLE DEPENDENT				\$145	\$	\$290	\$
<input type="checkbox"/> ONE MONTH EXTENSION OF TIME				\$55	\$	\$110	\$
<input type="checkbox"/> TWO MONTH EXTENSION OF TIME				\$210	\$	\$420	\$
<input type="checkbox"/> THREE MONTH EXTENSION OF TIME				\$475	\$	\$950	\$
<input type="checkbox"/> FOUR MONTH EXTENSION OF TIME				\$740	\$	\$1480	\$
<input type="checkbox"/> FIVE MONTH EXTENSION OF TIME				\$1005	\$	\$2010	\$
<input type="checkbox"/> LESS ANY EXTENSION FEE ALREADY PAID				minus	(\$ )	minus	(\$ )
<input type="checkbox"/> TERMINAL DISCLAIMER				\$55	\$	\$110	\$
<input type="checkbox"/> OTHER FEE OR SURCHARGE AS FOLLOWS:							
TOTAL FEE DUE					\$		\$-0-

- ☐ A check in the amount of \$\_\_\_\_.00 is attached. Please charge any deficiency or credit any overpayment to Deposit Account 23-3050.
- ☐ Please charge Deposit Account No. 23-3050 in the amount of \_\_\_\_\_.00. This sheet is attached in duplicate.
- ☐ Petition is hereby made under 37 CFR § 1.136(a) (fees: 37 CFR § 1.17(a)(1)-(4)) to extend the time for response to the Office Action of \_\_\_\_\_ to and through \_\_\_\_\_ comprising an extension of the shortened statutory period of \_\_\_\_\_ month(s).

- ☒ The Commissioner is hereby requested to grant an extension of time for the appropriate length of time, should one be necessary, in connection with this filing or any future filing submitted to the U.S. Patent and Trademark Office in the above-identified application during the pendency of this application. The Commissioner is further authorized to charge any fees related to any such extension of time to Deposit Account 23-3050. This sheet is provided in duplicate.

Date: August 4, 2004

  
\_\_\_\_\_  
John E. McGlynn  
Registration No. 42,863

Woodcock Washburn LLP  
One Liberty Place - 46th Floor  
Philadelphia PA 19103  
Telephone: (215) 568-3100  
Facsimile: (215) 568-3439

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Docket No. MSF 0018/115148.1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Nigel R. Ellis and Rodger N. Kline

Serial No.: 09/213,087

Group Art Unit: 2171

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Filed: December 16, 1998

Examiner: D. Mizrahi

Technology Center 2100

For: AUTOMATIC DATABASE STATISTICS CREATION

I, John E. McGlynn, Registration No. 42,863 certify that this correspondence is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

On April 30, 2001

John E. McGlynn Registration No. 42,863

Assistant Commissioner  
for Patents  
Washington, D.C. 20231

Dear Sir:

RESPONSE UNDER 37 C.F.R. § 1.111

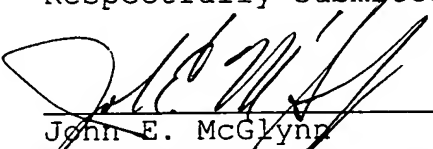
This paper is being filed in response to the Office Action dated April 3, 2001, (paper no. 4) issued in connection with the above-identified patent application. Reconsideration is respectfully requested.

REMARKS

Claims 1-19 are pending in this application. Pursuant to 35 U.S.C. § 121, the Examiner has required Applicants to elect one of allegedly three distinct inventions for prosecution in the present application. In response to this requirement, Applicants hereby elect claims 1-9, 11, and 12 corresponding to Examiner's Group I. Applicants reserve the right, however, to pursue the non-elected claims via divisional applications.

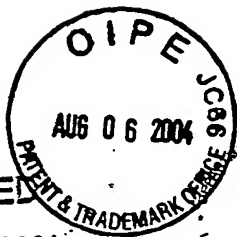
An early Notice of Allowance is requested.

Respectfully submitted,

  
\_\_\_\_\_  
John E. McGlynn  
Registration No. 42,863

Date: April 30, 2001

WOODCOCK WASHBURN KURTZ  
MACKIEWICZ & NORRIS  
One Liberty Place - 46th Floor  
Philadelphia, PA 19103  
(215) 568-3100



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APR 05 2001



STR/mjs/JEM  
UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

Woodcock Washburn Kurtz  
Mackiewicz & Norris LLP

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/213,087 12/16/98 ELLIS

N MSFT-0010

EXAMINER

TM02/0403

JOHN E. MCGLYNN  
WOODCOCK WASHBURN KURTZ MACKIEWICZ &  
NORRIS  
ONE LIBERTY PLACE 46TH FLOOR  
PHILADELPHIA PA 19103

MIZRANI, D

ART UNIT

PAPER NUMBER

2171

DATE MAILED:

04/03/01

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APR 05 2001

DOCKET DEPT.  
WWKMN

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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## Office Action Summary

Application No.  
09/213,087

Applicant(s)  
Nigel R. Ellis et al.

Examiner  
Diane Mizrahi

Group Art Unit  
2171



☒ Responsive to communication(s) filed on Feb 19, 1999

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire one month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claim

☒ Claim(s) 1-19 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-19 are subject to restriction or election requirement.

### Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

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### Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

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☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4

☒ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

*[Handwritten mark]*





UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARK  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED:

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AUG 11 2004

Technology Center 2100

### INTERVIEW SUMMARY

All participants (applicant, applicant's representative, PTO personnel):

- (1) John E. McBlane (3) \_\_\_\_\_  
(2) Diana M. McGowan (4) \_\_\_\_\_

Date of Interview 8/25/04

Type: ☐ Telephonic ☐ Televideo Conference ☐ Personal (copy is given to ☐ applicant ☐ applicant's representative).

Exhibit shown or demonstration conducted: ☐ Yes ☒ No If yes, brief description: \_\_\_\_\_

Agreement ☐ was reached. ☒ was not reached.

Claim(s) discussed: none

Identification of prior art discussed: "Inside SQL Server" by Microsoft.

Description of the general nature of what was agreed to if an agreement was reached, or any other comments: Agreed and

did not include copy of complete text in IDS.

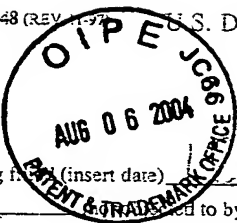
Examiner has requested pertinent prior art Applicant  
will send pertinent prior art for Applicant's IDS.

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

☒ It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph above has been checked to indicate to the contrary, A FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW.

Examiner Note: You must sign this form unless it is an attachment to another form.



# NOTICE OF DRAFTPERSON'S PATENT DRAWING REVIEW

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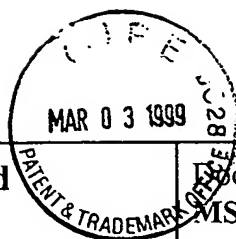
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The drawing (insert date)

is objected to by the Draftperson under 37 CFR 1.84 or 1.152.

Drawings are objected to by the Draftperson under 37 CFR 1.84 or 1.152 as indicated below. The Examiner will require submission of new, corrected drawings when necessary. Corrected drawings must be submitted according to the instructions on the back of this notice.

1. **DRAWINGS.** 37 CFR 1.84(a): Acceptable categories of drawings:  
 Black ink. Color.  
 Color drawing are not acceptable until petition is granted.  
 Fig(s) \_\_\_\_\_  
 Pencil and non black ink is not permitted. Fig(s) \_\_\_\_\_
2. **PHOTOGRAPHS.** 37 CFR 1.84(b)  
 Photographs are not acceptable until petition is granted.  
 3 full-tone sets are required. Fig(s) \_\_\_\_\_  
 Photographs not properly mounted (must be on bristol board or photographic double-weight paper). Fig(s) \_\_\_\_\_  
 Poor quality (half-tone). Fig(s) \_\_\_\_\_
3. **TYPE OF PAPER.** 37 CFR 1.84(e)  
 Paper not flexible, strong, white and durable.  
 Fig(s) \_\_\_\_\_  
 Erasures, alterations, overwritings, interlineations, folds, copy machine marks not acceptable. (too thin)  
 Mylar, vellum paper is not acceptable (too thin).  
 Fig(s) \_\_\_\_\_
4. **SIZE OF PAPER.** 37 CFR 1.84(f): Acceptable sizes:  
 21.0 cm by 29.7 cm (DIN size A4)  
 21.5 cm by 27.9 cm (8 1/2 x 11 inches)  
 All drawings sheets not the same size.  
 Sheet(s) \_\_\_\_\_
5. **MARGINS.** 37 CFR 1.84(g): Acceptable margins:  
 Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm  
 SIZE: A4 Size  
 Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm  
 SIZE: 8 1/2 x 11  
 Margins not acceptable. Fig(s) 1-3, 7, 9-11  
 Top (T) \_\_\_\_\_ Left (L) \_\_\_\_\_  
 Right (R) \_\_\_\_\_ Bottom (B) \_\_\_\_\_
6. **VIEWS.** 37 CFR 1.84(h)  
 REMINDER: Specification may require revision to correspond to drawing changes.  
 Views connected by projection lines or lead lines.  
 Fig(s) \_\_\_\_\_  
 Partial views. 37 CFR 1.84(h)(2)  
 Brackets needed to show figure as one entity.  
 Fig(s) \_\_\_\_\_  
 Views not labeled separately or properly.  
 Fig(s) \_\_\_\_\_  
 Enlarged view not labeled separately or properly.  
 Fig(s) \_\_\_\_\_
7. **SECTIONAL VIEWS.** 37 CFR 1.84(h)(3)  
 Hatching not indicated for sectional portions of an object.  
 Fig(s) \_\_\_\_\_  
 Sectional designation should be noted with Arabic or Roman numbers. Fig(s) \_\_\_\_\_
8. **ARRANGEMENT OF VIEWS.** 37 CFR 1.84(i)  
 Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned, so that the top becomes the right side, except for graphs. Fig(s) \_\_\_\_\_  
 Views not on the same plane on drawing sheet. Fig(s) \_\_\_\_\_
9. **SCALE.** 37 CFR 1.84(k)  
 Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction.  
 Fig(s) \_\_\_\_\_
10. **CHARACTER OF LINES, NUMBERS, & LETTERS.** 37 CFR 1.84(l)  
 Lines, numbers & letters not uniformly thick and well defined, clean, durable and black (poor line quality).  
 Fig(s) \_\_\_\_\_
11. **SHADING.** 37 CFR 1.84(m)  
 Solid black areas pale. Fig(s) \_\_\_\_\_  
 Solid black shading not permitted. Fig(s) \_\_\_\_\_  
 Shade lines, pale, rough and blurred. Fig(s) \_\_\_\_\_
12. **NUMBERS, LETTERS, & REFERENCE CHARACTERS.** 37 CFR 1.43(p)  
 Numbers and reference characters not plain and legible.  
 Fig(s) \_\_\_\_\_  
 Figure legends are poor. Fig(s) \_\_\_\_\_  
 Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(3) Fig(s) \_\_\_\_\_  
 English alphabet not used. 37 CFR 1.84(p)(3) Fig(s) \_\_\_\_\_  
 Numbers, letters and reference characters must be at least .32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3) Fig(s) 3-6, 8-11
13. **LEAD LINES.** 37 CFR 1.84(q)  
 Lead lines cross each other. Fig(s) \_\_\_\_\_  
 Lead lines missing. Fig(s) \_\_\_\_\_
14. **NUMBERING OF SHEETS OF DRAWINGS.** 37 CFR 1.43(t)  
 Sheets not numbered consecutively, and in Arabic numerals beginning with number 1. Fig(s) \_\_\_\_\_
15. **NUMBERING OF VIEWS.** 37 CFR 1.84(u)  
 Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s) \_\_\_\_\_
16. **CORRECTIONS.** 37 CFR 1.84(w)  
 Corrections not made from PTO-948 dated \_\_\_\_\_
17. **DESIGN DRAWINGS.** 37 CFR 1.152  
 Surface shading shown not appropriate. Fig(s) \_\_\_\_\_  
 Solid black shading not used for color contrast.  
 Fig(s) \_\_\_\_\_



Form PTO-1449 Modified

Serial No.  
09/213,087

Applicant  
**Nigel R. Ellis et al.**

Filing Date  
**December 16, 1998**

Group  
2776

**OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)**

\* 

AA

Soukup, R., "Inside SQL Server™ 6.5", Microsoft® Programming Series, Microsoft® Press, 1997 pgs 1-32 (renumbered)

EXAMINER Diane Mizrahi

DATE CONSIDERED 3/27/01

\*A copy of this reference will not be forwarded to the U.S. Patent and Trademark Office since it is believed to be too voluminous and easily obtainable by the Examiner.



Application/Control Number: 09/213,087

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III. DETAILED ACTION

1. Claims 1-19 are presented for examination.

Election/Restriction

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-9, and 11-12, drawn to database management for managing data, classified in class 707, subclass 200.

II. Claim 10, drawn to query optimization, classified in class 707, subclass 2.

III. Claims 13-15, drawn to selecting an executable procedure from a plurality of procedures in a database, classified in class 707, subclass 102

IV. Claims 16-17, drawn to statistics in a database (i.e. manipulating data), classified in class 707/101.

3. The inventions are distinct, each from the other because of the following reasons: Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as database management for managing data without requiring the query optimization of invention II. See MPEP § 806.05(d).

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Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as an executable procedure from database management for managing data. See MPEP § 806.05(d).

Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as an executable procedure from a plurality of procedures in a database without query optimization. See MPEP § 806.05(d).

Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separate utility such as statistics in a database without an executable procedure from a plurality of procedures in a database. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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Examiner attempted to contact Attorney John McGlynn on March 30, 2002 to request an oral election to the above restriction requirements, but did not result in an election being made because Attorney McGlynn was not available.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Specification

4. The disclosure is objected to because of the following informalities:

A. On page 1, line 3-4, "(not yet assigned)" should be deleted;

B. On page 24, lines 16-18, "(not yet assigned)" should be deleted;

C. On page 24, line 18, "(Atty. Docket No. Msft-0019)" should be deleted;

Art Unit: 2171

D. On page 1, lines 3-4, (Atty. Docket No. Msft-0019)" should be deleted; and


E. On page 22, lines 15-21, the paragraph should be unbolded.

Points of Contact

5. Any inquiry concerning this communications from the examiner should be directed to Diane Mizrahi whose telephone number is (703) 305-3806. The examiner can normally be reached on Monday to Thursday from 7:30 AM. to 5:00 PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Thomas Black can be reached on (703) 305-9707.

Any response to this office action should be mailed to The Commissioner of Patents and Trademarks, Washington, D.C. 20231 or the fax phone number for this group at (703) 308-9051. For formal or draft communications, please label "PROPOSED" or "DRAFT". Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, 6th Floor Receptionist, Arlington, Virginia.

  
Diane Mizrahi  
Patent Examiner

March 31, 2001